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UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ALASKA

MARIANA MORENO and MARISA
WELLINGTON,

Case No. 3:21-cv-00103-JMK

Plaintiffs,

v.

NEWREZ, LLC, d/b/a SHELLPOINT
MORTGAGE SERVICING,

Defendant.

**DECLARATION OF JESSICA M. BROWN IN SUPPORT OF DEFENDANT'S
MOTION FOR SANCTIONS AT DKT. NO. 33 AND COURT'S ORDER
GRANTING THE MOTION IN PART AND ORDERING AN ACCOUNTING
OF EXPENSES AT DKT. NO 41**

I, Jessica M. Brown, declare as follows:

1. I am an attorney licensed to practice before this Court. I am a partner at Holland & Knight LLP ("H&K") and counsel for Defendant NewRez, LLC, d/b/a Shellpoint Mortgage Servicing in this case. Except as otherwise stated below, I have personal knowledge of the factual matters set out in this declaration. If called as a

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witness, I could and would testify to such matters, without waiver of any applicable privilege.

2. On or about April 19, 2023, Defendant advanced a Motion to Compel. Dkt. No. 28. This Court granted that motion on or about May 10, 2023. Dkt. No. 30.
3. On May 24, 2023, Defendant moved for sanctions, seeking the expenses it incurred in bringing its Motion to Compel. Dkt. No. 33. This Court granted that motion in part on or about June 29, 2023. Dkt. No. 41.

4. In granting Defendant's sanctions motion in part, this Court reasoned:

The party requesting fees bears the burden of documenting the hours expended and providing evidence in support of those hours worked. Defendant did not support its request for an award of fees with any information to aid the Court in ascertaining what expenses and fees comprise the \$3,344 figure and whether the included attorney's fees are reasonable. For example, Defendant did not submit a bill detailing the hours spent on the Motion to Compel or an affidavit detailing Defendant's attorneys' hourly rates and experience . . . In determining a reasonable hourly rate, the Court looks to the prevailing hourly rate in that community for similar services by lawyers of reasonably comparable skill, experience and reputation. A party seeking attorneys' fees must provide satisfactory evidence . . . that the requested rates are in line with those prevailing in the community[.] Further, in addition to establishing a reasonable hourly rate, a prevailing party in a discovery dispute seeking attorneys' fees bears the burden of proving that the fees and costs taxed are . . . reasonably necessary to achieve the result obtained.

(internal quotation marks and citations omitted).

5. This Court thereafter directed:

Within ten (10) days of this Order, Defendant is required to submit an affidavit providing an accounting of the expenses and attorney's fees included in the \$3,344 figure, the hourly rates of the attorneys who worked on the Motion to Compel, the number of attorney hours that went into the Motion to Compel, as well as any supporting documentation, such as client bills.

6. In accordance with the Court's order, attached hereto as **Exhibit A** is a PDF copy of an accounting of attorney time incurred in the filing of Defendant's Motion to Compel. On July 5, 2023, I downloaded all attorney time entries for this matter appearing on Defendant's bills for the months of April, May, and June. I then segregated the time entries that corresponded to the filing of Defendant's Motion to Compel. The resulting time listing identifies the timekeeper, the hours billed, and the billed amount that was incurred in the filing of Defendant's Motion to Compel.

7. This attorney time totals \$3,300 in fees, not \$3,444, as previously indicated in Defendant's Motion for Sanctions at Docket Number 33. *See Exhibit A* at 2. Defendant is accordingly only seeking \$3,300 in fees, not \$3,444, and apologizes for any oversight in this respect.

8. The attorney hours total 11.10, or 11 hours and 6 minutes.

9. Three attorney timekeepers appear on the accounting report: me, Carter Burgess, and Jacob Anthony Barrera.

10. Carter Burgess is a partner at H&K, the firm's relationship partner for Defendant, and a subject matter expert in consumer financial services litigation on behalf of mortgage companies, such as Defendant. Mr. Burgess is licensed in the State of Florida, but has practiced in federal and state courts around the country for roughly 15 years, since 2008.

11. I am also a partner at H&K, and serve as local counsel for Defendant. I am licensed in California and Alaska. I have been licensed in California since 2013 (roughly 10 years) and Alaska since 2014 (roughly 9 years). I practiced in the

Anchorage office of H&K from 2016-2020. During that time I appeared almost exclusively in this Court, as well as Alaska state courts. I am well-versed in federal practice and procedure and continue my Alaska practice remotely from the firm's office in San Francisco, California.

12. Jacob Anthony Barrera is a first-year associate at H&K. He has been licensed in California since 2022. Since starting at the firm, he has represented clients in state and federal courts around the country.

13. All three attorney timekeepers bill this client at the same, blended rate of \$300/hour.

14. As this Court noted in its order, the burden to establish reasonableness of prevailing rates in the community is on the fee applicant. *See Gunn v. Drage*, No. 20-16046, 2023 WL 3043651, at *2 (9th Cir. Apr. 21, 2023). Here, Defendant “can satisfy this burden through attorney affidavits and citations to rate determinations in other cases.” *Id.* (citing *Camacho v. Bridgeport Fin., Inc.*, 523 F.3d 973, 980 (9th Cir. 2008)).

15. As this Court observed in late 2022, “In recent years, federal and state courts in Alaska have found rates ranging from \$275 to \$400 per hour to be reasonable for Alaska attorneys, depending on their years of experience and the subject matter.” *TD Ameritrade, Inc. v. Matthews*, No. 3:16-CV-00136-SLG, 2022 WL 17752138, at *7 (D. Alaska Dec. 19, 2022) (citations omitted). Judge Gleason further determined that attorneys with “approximately 20 years of experience” warrant the higher hourly rate of \$400; while associate hourly rates were satisfactory at \$284.75. *Id.*

16. These hourly rate determinations are in alignment with a \$300/hour blended hourly rate for all three attorneys who billed time in support of Defendant's Motion to Compel. The average years of experience between the three billing attorneys is just over 8 years—enough years' experience to be elevated to partner at many local and national law firms in Alaska. \$300/hour for all work done in support of Defendant's Motion to Compel is therefore reasonable.

17. This Court will likewise examine the reasonableness of the time spent in support of the Motion to Compel; here, 11 hours and 6 minutes. This time was likewise reasonable by resort to the amount of time spent trying to meet and confer with opposing counsel to avoid motion practice, the preparation of the materials and research in support of the motion, and continued communication with counsel during the pendency of the motion. *Cf. TD Ameritrade, Inc. v. Matthews*, No. 3:16-CV-00136-SLG, 2022 WL 17752138, at *7 (D. Alaska Dec. 19, 2022) (“This amount of time is not unreasonable given the voluminous documents Mr. Matthews generated during the course of this the litigation, the motion practice leading to the Court’s invalidation and cancellation of the liens, and the time spent preparing this motion for attorney’s fees.”).

18. Attorney time spent was likewise allocated appropriately among counsel. I spent 6.7 hours on the matter as local counsel with a preexisting relationship with Plaintiffs’ counsel, while Mr. Barrera worked efficiently under my supervision, billing just 4.1 hours. Mr. Burgess reviewed and consulted for the subject matter specific to

the discovery issues in dispute with regard to documentation and materials required to advance a viable defense in this matter.

19. All attorney time spent was reasonably necessary to achieve the result obtained. Plaintiffs' counsel had not produced any discovery for just under a year, the fact discovery deadline was coming to an imminent close, this Court had already granted numerous pretrial extensions, and Defendant required documents and interrogatory responses in order to understand Plaintiffs' allegations and mount a defense to them.

20. I declare under penalty of perjury, under the laws of the State of Alaska, that the foregoing is true and correct, and that I have executed this declaration this 7th day of July, 2023, at San Francisco, California.

Dated: July 7, 2023



Jessica M. Brown

EXHIBIT A

Tkpr	Tkpr Name	Work Date	Post Date	Client Matter	Billed Hrs	Billed Amt	Bill Date	Bill Num	Task	Activity	Narrative
12105	Brown, Jessica M.	2023-04-03	2023-04-04	158826.00019	0.30	\$90.00	2023-06-29	33146135	L120	A107	Correspond and call with opposing counsel re motion to compel and timeline for disclosure of discovery.
12105	Brown, Jessica M.	2023-04-03	2023-04-04	158826.00019	0.30	\$90.00	2023-06-29	33146135	L120	A104	Analyze outline of motion to compel re procedural preparations re filing.
12105	Brown, Jessica M.	2023-04-03	2023-04-04	158826.00019	0.20	\$60.00	2023-06-29	33146135	L120	A105	Draft analysis for C. Burgess re strategy re discovery responses and motion to compel.
12105	Brown, Jessica M.	2023-04-04	2023-04-04	158826.00019	0.20	\$60.00	2023-06-29	33146135	L210	A105	Direct J. Barrera re further preparation of motion and attendant filings in support of same.
45608	Barrera, Jacob Anthony	2023-04-05	2023-04-16	158826.00019	0.60	\$180.00	2023-06-29	33146135	L440	A101	Draft and edit motion to compel and gather necessary exhibits in preparation of a filing in Alaska absent opposing counsel producing any discovery.
12105	Brown, Jessica M.	2023-04-06	2023-04-07	158826.00019	0.20	\$60.00	2023-06-29	33146135	L120	A107	Exchange meet and confer correspondence with opposing counsel re receipt of discovery.
45608	Barrera, Jacob Anthony	2023-04-10	2023-04-16	158826.00019	0.60	\$180.00	2023-06-29	33146135	L440	A101	Meet with J. Brown to strategize next steps re: Motion to Compel and case status.
12105	Brown, Jessica M.	2023-04-11	2023-04-13	158826.00019	0.60	\$180.00	2023-06-29	33146135	L210	A105	Strategize with J. Barrera re preparations for motion to compel.
12105	Brown, Jessica M.	2023-04-13	2023-04-14	158826.00019	0.30	\$90.00	2023-06-29	33146135	L230	A107	Exhaust meet and confer obligations re call with opposing counsel.
12105	Brown, Jessica M.	2023-04-14	2023-04-17	158826.00019	0.20	\$60.00	2023-06-29	33146135	L210	A105	Further direct J. Barrera re applicable motion preparations.
44182	Burgess, Carter	2023-04-18	2023-04-18	158826.00019	0.30	\$90.00	2023-06-29	33146135	L120	A101	Attention to discovery issues with Plaintiff.
12105	Brown, Jessica M.	2023-04-18	2023-04-19	158826.00019	0.20	\$60.00	2023-06-29	33146135	L120	A107	Analyze opposing counsel threat re meet and confer correspondence, respond to same.
12105	Brown, Jessica M.	2023-04-18	2023-04-19	158826.00019	0.30	\$90.00	2023-06-29	33146135	L120	A101	Advise C. Burgess re discovery status and close of discovery window.
45608	Barrera, Jacob Anthony	2023-04-18	2023-04-19	158826.00019	0.90	\$270.00	2023-06-29	33146135	L440	A102	Further research and analyze Alaska case law re: motion to compel and edit motion to compel for J. Brown to review in anticipation of filing.
45608	Barrera, Jacob Anthony	2023-04-19	2023-04-20	158826.00019	2.00	\$600.00	2023-06-29	33146135	L440	A102	Continue to research Alaska case law re: motion to compel, continue editing motion to compel in anticipation of filing with J. Brown.

12105	Brown, Jessica M.	2023-04-19	2023-04-21	158826.00019	2.70	\$810.00	2023-06-29	33146135	L210	A103	Revise motion to compel and supporting exhibits and direct filing re same.
12105	Brown, Jessica M.	2023-04-27	2023-04-28	158826.00019	0.20	\$60.00	2023-06-29	33146135	L230	A107	Further correspond with opposing counsel re meet and confer requirements in light of discovery responses to-date.
12105	Brown, Jessica M.	2023-05-02	2023-05-05	158826.00019	0.30	\$90.00	2023-06-29	33146138	L210	A104	Analyze plaintiff's putative cross-motion to compel discovery.
12105	Brown, Jessica M.	2023-05-03	2023-05-03	158826.00019	0.20	\$60.00	2023-06-29	33146138	L120	A101	Analyze application motion to compel deadlines re responsive briefing requirements.
12105	Brown, Jessica M.	2023-05-08	2023-05-09	158826.00019	0.50	\$150.00	2023-06-29	33146138	L210	A103	Prepare, revise and finalize reply brief re motion to compel.

\$3,330.00

CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of July, 2023, I caused a true and correct copy of the foregoing

- **Declaration of Jessica M. Brown in Support of Defendant's Motion for Sanctions at Dkt. No. 33 and Court's Order Granting the Motion in Part and Ordering an Accounting of Expenses at Dkt. No. 41**

to be served electronically via CM/ECF in accordance with the Court's electronic filing procedures on the following:

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By:



Philip Dobbs, Practice Assistant